

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
DOCKET NO. 1:12-cv-00309-MOC-DLH

JIMMY DEAN GREGORY,)
Plaintiff,)
Vs.) MEMORANDUM OF DECISION
CAROLYN W. COLVIN, acting Commissioner of) and
Social Security,) ORDER
Defendant.)

THIS MATTER is before the court on review of a Memorandum and Recommendation issued in this matter. In the Memorandum and Recommendation, the magistrate judge advised the parties of the right to file objections within 14 days, all in accordance with 28, United States Code, Section 636(b)(1)(c). No objections have been filed within the time allowed.

The *Federal Magistrates Act of 1979*, as amended, provides that “a district court shall make a *de novo* determination of those portions of the report or specific proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1); Camby v. Davis, 718 F.2d 198, 200 (4th Cir.1983). However, “when objections to strictly legal issues are raised and no factual issues are challenged, *de novo* review of the record may be dispensed with.” Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982). Similarly, *de novo* review is not required by the statute “when a party makes general or conclusory objections that do not direct the court to a specific error in the magistrate judge’s

proposed findings and recommendations.” *Id.* Moreover, the statute does not on its face require any review at all of issues that are not the subject of an objection. Thomas v. Arn, 474 U.S. 140, 149 (1985); Camby v. Davis, 718 F.2d at 200. Nonetheless, a district judge is responsible for the final determination and outcome of the case, and accordingly the court has conducted a careful review of the magistrate judge’s recommendation.

After such careful review, the court determines that the recommendation of the magistrate judge is fully consistent with and supported by current law. Further, the brief factual background and recitation of issues is supported by the applicable pleadings. Based on such determinations, the court will fully affirm the Memorandum and Recommendation and grant relief in accordance therewith.

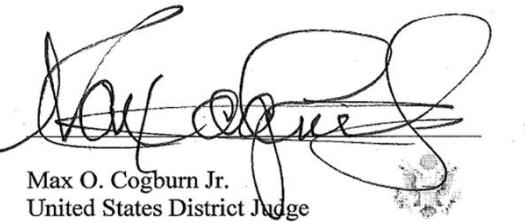
ORDER

IT IS, THEREFORE, ORDERED that the Memorandum and Recommendation (#14) is **AFFIRMED**, the Commissioner’s Motion for Summary Judgment (#12) is **DENIED**, the plaintiff’s Motion for Summary Judgment (#10) is **GRANTED**, and the decision of the Commissioner is **VACATED** and **REMANDED** for purposes of conducting a new hearing and taking additional evidence. At that hearing, the ALJ will consider and assess, among other matters, plaintiff’s educational category based on all the evidence in the record and provide a rationale for any such determination in the decision. Although the ALJ may reach the same decision on remand, the decision should set forth sufficient reasoning to allow this court to conduct a meaningful review and should discuss the evidence in the record supporting such determination, all in accordance with Sentence Four of 42 U.S.C. § 405(g); and

IT IS FURTHER ORDERED that this action is **DISMISSED**.

The Clerk of Court shall enter a Judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure consistent with this Memorandum of Decision and Order.

Signed: 1/29/2014



A handwritten signature in black ink, appearing to read "Max O. Cogburn Jr.", is written over a horizontal line. Below the signature, the name "Max O. Cogburn Jr." is printed in a smaller, sans-serif font, followed by "United States District Judge".